

**Amendment No. 3 to HB1786**

**Stewart  
Signature of Sponsor**

**AMEND Senate Bill No. 2088**

**House Bill No. 1786\***

by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_\_. Tennessee Code Annotated, Title 50, Chapter 6, Part 1, is amended by adding the following language as a new section:

(a) Beginning July 1, 2014, every employer, as defined by § 50-6-102, shall pay to each employee, as defined by § 50-6-102, wages at a rate not less than eight dollars twenty-five cents (\$8.25) per hour.

(b) The commissioner or an authorized representative of the commissioner shall have the authority to:

(1) Investigate and ascertain the wages of any employee, as defined by § 50-6-102;

(2) Enter and inspect the place of business of any employer, as defined by § 50-6-102, for the purpose of inspecting the payroll records of such employer;

(3) Require from any such employer a full and correct statement in writing with respect to wages, names and addresses of any of the employer's employees;

(4) Administer rules and require by subpoena the attendance of witnesses, and the production of books, records and other evidence relative to any matter under investigation; and

(5) Carry out the provisions of this section.

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(c) A violation of this section is a Class B misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Further, any employer, as defined by § 50-6-102, who willfully violates any provision of this section is subject to a civil penalty of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) at the discretion of the commissioner or the commissioner's designated representative. Each and every infraction constitutes a separate and distinct violation. If the commissioner, or the commissioner's designated representative, determines that the violation was unintentional, there shall be a warning, in lieu of a penalty, on the first violation. On second or subsequent violation, the civil penalty is applicable and may be assessed at the discretion of the commissioner, or the commissioner's designated representative. It shall be at the sole discretion of the commissioner to elect to proceed either civilly or criminally upon any violation of this section; however, the employer shall not be charged both civilly and criminally for the same violation.

(d) Any employer, as defined by § 50-6-102, who violates the minimum wage requirements of this section shall be liable to the employee or employees affected for the amount of unpaid minimum wages. Upon a judgment being rendered in favor of any employee or employees, in any action brought in any court of competent jurisdiction to recover unpaid wages under this section, such judgment shall include, in addition to the unpaid wages adjudged to be due, an additional amount equal to such wages as damages. The court shall, in addition

to any judgment awarded to the employees, require the defendant to pay court costs and reasonable attorney's fees incurred by the employee or employees. However, action to recover must be instituted within three (3) years from the date such wages should have been paid.

(e) In the administration of this section, the commissioner shall cooperate, to the fullest extent consistent with this section, with the administrator of the wage and hour division of the United States department of labor.

(f) Nothing in this section shall be deemed to interfere with, impede or in any way diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish wages in excess of the applicable minimum under this section.

(g) Within existing resources of the department of labor and workforce development, the commissioner of labor and workforce development shall promulgate rules to effectuate the purposes of this section that are not inconsistent with the provisions of the federal Fair Labor Standards Act. All such rules shall be promulgated in accordance with title 4, chapter 5.